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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

MAY 27 2011

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

DOCKETED BY

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IN THE MATTER OF THE COMMISSION ON ITS
OWN MOTION INVESTIGATING THE FAILURE
OF TRUXTON CANYON WATER COMPANY TO
COMPLY WITH COMMISSION RULES AND
REGULATIONS.

DOCKET NO. W-02168A-10-0247

DECISION NO. 72386

OPINION AND ORDER

DATES OF HEARING:

September 1, 2010 (Procedural Conference)
January 18, 2011 and February 28, 2011

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Yvette B. Kinsey

APPEARANCES:

Mr. Steve Wene, MOYES SELLERS LTD., on behalf of
Truxton Canyon Water Company;

Mr. Todd Wiley, FENNEMORE CRAIG, on behalf of
Valle Vista Property Owners Association, Inc.,; and

Ms. Kimberly Ruht and Mr. Charles Hains, Staff
Attorneys, Legal Division, on behalf of the Utilities
Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On June 23, 2010, the Staff of the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") filed a Complaint and Petition for Order to Show Cause ("OSC") against Truxton Canyon Water Company ("Truxton" or "Company"), an Arizona public service corporation. Staff alleges Truxton is in violation of Arizona law, Commission Rules and Regulations, Arizona Revised Statutes, and the Arizona Constitution.

On August 10, 2010, the Commission issued Decision No. 71837, ordering Truxton to appear and show cause why its actions do not constitute a violation of Arizona law and the Commission's Rules and Regulations. The Decision also directed the Hearing Division to conduct further proceedings in this matter.

1 On August 16, 2010, by Procedural Order, a procedural conference was scheduled for
2 September 1, 2010, to discuss the procedural schedule for this proceeding.

3 On September 1, 2010, the procedural conference was held as scheduled. Truxton and Staff
4 appeared through counsel. During the proceeding, hearing dates and other procedural deadlines were
5 discussed.

6 On September 2, 2010, by Procedural Order, the hearing in this matter was scheduled to begin
7 on January 18, 2011, and among other things, Staff was directed to file its Staff Report or direct
8 testimony in this matter on or before October 18, 2010.

9 On October 7, 2010, Staff filed a motion for an extension of time, until October 29, 2010, to
10 file its direct testimony. Staff stated that due to difficulty in coordinating a site visit with Truxton and
11 the Arizona Department of Environmental Quality ("ADEQ"), Staff needed additional time to file its
12 Staff Report. Staff further stated that the site visit was important to Staff's review of Truxton's
13 infrastructure, as well as to verify Truxton's assertion that actions have been taken to bring the
14 Company substantially in compliance with Commission Rules and with ADEQ. In addition to the
15 above factors, Staff stated that due to the large volume of information requested by and provided to
16 Staff, and due to Staff's limited resources, more time was needed, until October 29, 2010, to file its
17 direct testimony. There were no objections to Staff's motion for an extension of time.

18 On October 14, 2010, by Amended Procedural Order, Staff's motion was granted and the
19 deadline was extended to November 10, 2010.

20 On November 10, 2010, Staff filed its Direct Testimony.

21 On December 10, 2010, Truxton filed a Disclosure of Documents and Rebuttal Testimony and
22 Potential Exhibits.

23 On December 21, 2010, Valle Vista Property Owners Association, Inc. ("Association") filed a
24 Motion to Intervene stating that as customers, property owners, and as an Arizona Corporation, any
25 Complaints, Staff recommendations, and potential management and rate changes would have a
26 serious impact upon the Association.

27 On December 23, 2010, Staff filed a Notice of Filing Surrebuttal Testimony.

28 On December 30, 2010, Truxton provided Staff with a Discovery Request, identifying the

1 items the Company believes are current violation of the Commission's rules and Arizona statutes.

2 On January 5, 2011, a Procedural Order was issued granting intervention to the Association.
3 The Procedural Order also directed Truxton to mail to each of its customers notice of the January 18,
4 2011, hearing, as well as a copy of Commission Decision No. 71837 (August 10, 2010).

5 On January 6, 2011, Staff filed a Response to the Discovery Request Re: Identification of
6 Current Outstanding Regulatory Issues.

7 On January 11, 2011, Truxton filed a Motion for Reconsideration regarding notification to
8 customers ("Motion"). Truxton's Motion stated that notification to its customers pursuant to the
9 Procedural Order would be cost prohibitive (\$2,200). The Motion stated that, alternatively, the
10 Company would post the notice on its website.

11 On January 18, 2011, a full public hearing was held as scheduled before a duly authorized
12 Administrative Law Judge ("ALJ") of the Commission at its offices in Phoenix, Arizona. Truxton,
13 the Association, and Staff appeared through counsel. Several members of the public appeared and
14 presented public comments. Staff, Truxton, and the Association provided testimony and evidence on
15 the issues raised in this matter. Regarding Truxton's Motion for Reconsideration, Truxton was
16 informed that notice needed to be provided and that another day of hearing would be scheduled by
17 Procedural Order to allow for any additional public comments or intervention in this matter. The
18 hearing was recessed to allow Truxton to provide notice to its customers.

19 On January 20, 2011, by Procedural Order, the hearing in this matter was scheduled to
20 reconvene on February 28, 2011. The Procedural Order directed the Company to send to each of its
21 customers, via first Class Mail, notification of the second hearing date.

22 On February 1, 2011, Truxton filed Notice of Filing Affidavit of Mailing.

23 On February 28, 2011, the hearing reconvened as scheduled. Truxton, the Association, and
24 Staff appeared through counsel. Truxton presented additional testimony and evidence. No additional
25 members of the public appeared to give public comments. At the conclusion of the hearing, Truxton
26 was instructed to file late-filed exhibits, and the parties and Staff were directed to file closing briefs
27 addressing the transfer of a water service agreement ("Agreement"). Truxton requested 30 days to
28 discuss settlement of the Agreement with Staff and the Association.

1 On March 14, 2011, Truxton filed a Notice of Filing Post Hearing Documentation.

2 On March 25, 2011, Truxton, the Association, and Staff filed closing briefs.

3 * * * * *

4 Having considered the entire record herein and being fully advised in the premises, the
5 Commission finds, concludes, and orders that:

6 **FINDINGS OF FACT**

7 **Background**

8 1. Pursuant to authority granted by the Commission in Decision No. 41781 (December
9 15, 1971), Truxton is a public service corporation engaged in the business of providing water utility
10 service to approximately 874 residential and commercial customers in the vicinity of Kingman,
11 Arizona, in Mohave County.

12 2. Truxton is located approximately nine (9) miles north of Kingman, Arizona, along US
13 Highway 66, in Mohave County. Truxton's CC&N area encompasses approximately five-and-one
14 half miles.

15 3. Truxton is a C corporation and is wholly owned by the Claude K. Neal Family Trust
16 ("Trust"). The Trust manages Truxton's day-to-day operations, including compliance with regulatory
17 agencies, under a Management Agreement. B. Marc Neal is the President of Truxton and is the sole
18 Trustee of the Trust.¹ B. Marc Neal is also the President of Truxton and other affiliate companies as
19 shown in Exhibit A, attached hereto and incorporated herein.

20 4. Truxton purchases the vast majority of its water supply from the Trust through a
21 Water Supply Agreement ("WSA"). The WSA requires the Trust to test and treat its water supply,
22 and to be in compliance with standards established by the Arizona Department of Health Services,
23 and other regulatory agencies.² In addition, the WSA provides that, if it becomes necessary for the
24 Trust to invest additional capital to bring its water supply in compliance with regulatory standards, it
25 could recover such costs through revision of the WSA.³

26
27 ¹ Staff states that Mr. B. Marc Neal now acts as the Trust's sole Trustee because Rita B. Neal, Mr. Neal's mother and Co-
Trustee, is aged and is no longer active in the management of the Trust. Exhibit S-2 at 3.

28 ² Exhibit S-2, Attachment AII-1.

³ Id.

5. Under the WSA, Truxton pays the Trust a monthly management fee of \$9.78 per service connection.⁴

6. Truxton is operating under rates and charges established in Decision No. 63713 (June 6, 2001).

7. According to Staff, Truxton's water system consists of two wells, two storage tanks, distribution mains, customer meters, and fire hydrants.⁵ Truxton's water system is interconnected to the Trust's water system. The Trust owns and uses its six wells, two storage tanks, and transmission main to deliver water to Truxton's distribution system.⁶

8. Under the WSA, the Trust is required to deliver 288,000 gallons of water per day. However, Staff is concerned that water delivered to Truxton by the Trust is not metered at the interconnection points, making it impossible to determine Truxton's non-account water loss.⁷

9. Truxton's water use data shows that during peak times 231,774 gallons per day ("GPD") are being pumped.⁸ According to Staff, the Trust's wells can produce approximately 1.8 million GPD, and Staff concludes the Trust has adequate production and storage capacity to serve Truxton's existing customers and reasonable growth.⁹

Compliance History

10. Based on Staff's review and analysis of the Company, Truxton has a history of non-compliance with ADEQ and Commission Rules.¹⁰ Truxton's compliance issues include:

- May 2007- ADEQ issues a Compliance Order with Civil Administrative Penalty ("Compliance Order") to Truxton for being in violation of Arizona Revised Statutes, or adopted A.A.C. rules. Truxton was assessed an administrative penalty of \$5,000.¹¹

⁴ WSA, Exhibit S-2, attachment AII-1.

⁵ Staff states that Truxton's two wells and two storage tanks are not in use at this time. Exhibit S-4, Engineering Report at 2.

⁶ Exhibit S-4 at 2.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Complaint and Petition for OSC.

¹¹ The Compliance Order identified the following violations:

a. Failure to maintain pressure of at least 20 psi at ground level at all points in the potable water distribution system under all conditions of flow;

- September 2007- Truxton enters into a Consent Order with ADEQ which incorporates the items from the Compliance Order, establishes compliance deadlines, and assesses administrative penalties in the amount of \$3,000.¹²
- December 2008- ADEQ issued a Notice of Violation ("NOV") to Truxton for distributing water that exceeded the maximum contaminant level ("MCL") for arsenic and for Truxton's failure to provide public notice of the arsenic exceedances.¹³
- May 2009- ADEQ provided Truxton with a Sanitary Survey Report ("Sanitary Survey") which showed that Truxton's water system had both major and minor deficiencies.¹⁴
- December 2009- Northern Arizona Consolidated Fire District ("NACFD") filed with the Commission an Informal Complaint against Truxton related to Truxton's failure to install fire hydrants after NACFD paid as an advance the cost of \$13,440.¹⁵
- End of 2009- Early 2010- Staff repeatedly requested that Truxton come into compliance by repairing the leaks identified by ADEQ in the Consent Order and to

- b. Failure to obtain an Approval to Construct ("ATC") from ADEQ prior to making an alteration to the water system;
- c. Failure to maintain and keep in proper operating condition a facility used in the production, treatment, or distribution of a water supplier;
- d. Failure to monitor for trihalomethanes ("TTHMs") and halo acetic acids ("HAA5s") and to provide public notification of the failure to monitor during the years 2004 and 2005;
- e. Failure to notify ADEQ within 48 hours of the discovery of a failure to comply with a monitoring requirement;
- f. Failure to monitor for residual chlorine in the distribution system when total coliform are sampled for the period January 2004 through September 2006;
- g. Failure to notify ADEQ within 48 hours of failure to monitor for residual chlorine in the distribution system when coliform was sampled; and
- h. Failure to collect disinfection by-product and residual disinfection level samples at sites that are representative of water throughout the distribution system according to a written monitoring plan. ADEQ Compliance Order Docket No. DW-49-07.

¹² ADEQ Consent Order Docket No. DW-49-07.

¹³ ADEQ NOV issued December 17, 2008.

¹⁴ Truxton had major deficiencies related to: 1) 10 assorted outstanding Monitoring and Reporting violations; 2) active leaks within the distribution system creating the possibility of backflow contamination; 3) water pressure below 20 psi; and 4) the failure to file Consumer Confidence Reports for 2005 and 2007. The report also listed minor deficiencies related to Africanized bees located near the Little Hackberry well and the lack of an adequate system map showing the location of various distribution lines. (ADEQ Sanitary Survey Report May 19, 2009)

¹⁵ According to the Commission's Consumer Services Division, NACFD never filed a formal complaint against Truxton, but used the mediation process through the Commission. As a result of the mediation, an installation and maintenance agreement was entered into by the parties. Although Truxton did not install the hydrants in accordance with the timeline outlined in the agreement, the hydrants have since been installed. Exhibit S-6, at 6, and S-6, Attachment AA-3.

1 provide documentation supporting the repairs. Staff reported that the leaks were not
2 repaired and no supporting documentation was given by the Company.¹⁶

3 • February 2010- Staff requested Truxton submit documentation demonstrating
4 that it was in compliance with ADEQ and, if the Company was not in compliance, to
5 submit a plan outlining how it would come into compliance. Staff concluded that
6 Truxton's response was inadequate because although Truxton asserted that repairs had
7 been made, Truxton did not provide supporting documentation and did not submit a
8 plan for compliance.¹⁷

9 • From February through June 2010- Staff continued to work with Truxton on
10 issues related to its compliance.¹⁸

11 • January 2011- Truxton enters into a second Consent Order ("2011 Consent
12 Order" attached hereto as Exhibit B, and incorporated herein by reference) with
13 ADEQ which supercedes and incorporates unfinished items from the 2007 Consent
14 Order. The 2011 Consent Order gives Truxton one year to correct compliance issues
15 and Truxton is considered non-compliant instead of out of compliance.

16 11. On June 23, 2010, Staff filed with the Commission a Complaint and Petition for an
17 Order to Show Cause against Truxton. Staff alleged sixteen (16) violations against Truxton in the
18 Complaint and Petition.

19 12. On August 10, 2010, the Commission issued Decision No. 71837, an OSC against
20 Truxton. The OSC required Truxton to demonstrate how its actions do not constitute violations of
21 Arizona law, Commission Rules and Regulations, Arizona Revised Statutes, and the Arizona
22 Constitution. Staff alleges that based on Truxton's non-compliance, appointment of an interim
23 manager is appropriate and that:

24 a. Truxton's water system is unsafe, improper, or inadequate in violation of
25 A.R.S. § 40-321(A).
26

27 ¹⁶ Complaint and Petition for an Order to Show Cause at 4.

28 ¹⁷ Id. at 5.

¹⁸ Id. at 5-7.

- b. Truxton is not providing potable water and is in violation of A.A.C. R14-2-407(A).
- c. Truxton is not maintaining a minimum delivery pressure of 20 pounds per square inch (psi) in violation of A.A.C. R14-2-407(E).
- d. Truxton is not supplying customers with satisfactory and continuous service in violation of A.A.C. R14-2-407(C).
- e. Truxton obtained long-term debt without Commission approval in violation of A.R.S. § 40- 301(B) and 40-302(A).
- f. Truxton does not maintain its books and records in accordance with the prescribed methods in violation of A.R.S. § 40-221, 40-221 (C), and A.A.C. R14-2-411(D)(2).
- g. Truxton does not maintain accurate accounts and records in violation of A.A.C. R14-2-411(D)(1).
- h. Truxton does not adequately respond or investigate complaints made by customers or through the Commission's Consumer Services Division in violation of A.C.C. R14-2-411(A)(1) and (2).
- i. Truxton has not created written agreements evidencing main extension agreements ("MXAs") with customers in violation of A.A.C. R14-2-406(G).
- j. Truxton has not had its MXAs approved by the Commission, nor has it refunded advances to customers in violation of A.A.C. R14-406(M).
- k. Truxton has not billed under its tariff on certain occasions in violation of A.A.C. R14-2-409(D)(1).
- l. Truxton is not in compliance with Commission orders, decisions, rules, or regulations in violation of A.R.S. § 40-202(L).
- m. Truxton does not consistently provide accurate information to the Commission in violation of A.R.S. § 40-204(A).
- n. Truxton does not provide information or documentation to Staff when requested in violation of A.R.S. § 40-240(B).

13. Staff further asserts that a Commission Order is necessary to preserve the safety and health of Truxton's customers.¹⁹

14. Staff further believes that grounds exist to assess civil penalties against Truxton pursuant to A.R.S. §§ 40-424 and 425.

15. On January 14, 2011, ADEQ issued a Compliance Status Report which indicates that Truxton has some remaining water quality issues and monitoring and reporting violations.²⁰ Because Truxton has failed to provide monitoring and reporting, ADEQ was unable to determine if Truxton is delivering water that meets water quality standards.²¹

16. Truxton is not located within any Active Management Area ("AMA"). The Arizona

¹⁹ Decision No. 71837 (August 10, 2010).

²⁰ Exhibit S-8.

²¹ Id.

1 Department of Water Resources ("ADWR") has determined that Truxton is currently in compliance
2 with departmental requirements governing water providers and/or community water systems.²²

3 17. Truxton does not have an approved Curtailment Tariff on file with the Commission.
4 Staff recommends that Truxton file a curtailment tariff as soon as possible, but not later than forty-
5 five (45) days after the effective date of a Decision in this matter.

6 18. Truxton has an approved backflow prevention tariff on file with the Commission.

7 **Public Comments**

8 19. Two days of hearing were held on the issues raised in the OSC. Several members of
9 the public presented public comments during the hearing.

10 20. Ms. Victoria Hoag gave public comments and stated that she has lived in the Valle
11 Vista subdivision since 2008.²³ Ms. Hoag stated that the Company has not been timely in providing
12 notice to customers when the contaminant levels are high and, when notice is given, it is inadequate;
13 there have been repeated issues with arsenic and e. coli in the water; leaks in the system have taken as
14 long as 18 months to repair; no money is being reinvested in capital improvements; and the Company
15 is non-responsive to customer complaints.²⁴ Ms. Hoag provided a copy of a *New York Times* article
16 dated January 7, 2011, showing that Truxton's arsenic and TTHM levels exceeded the Environmental
17 Protection Agency's MCL. Ms. Hoag also stated that the Company's request to post notice of the
18 hearing date to its website was impossible because the website was not functioning and, to her
19 knowledge, has never functioned.²⁵

20 21. Mr. Butch Martin also provided public comments. Mr. Martin provided a pictorial
21 showing various leaks on the Truxton system dating from August of 2009 through January 2011.²⁶
22 Mr. Martin stated that he has provided copies of the photos to Truxton and the Commission; repair
23 work on the system has been "sloppy"; Truxton fails to fulfill its obligations (ie., leaks, installing fire
24 hydrants, mainline extensions) until they are forced to do so; and that Truxton "lacks capital,

25
26 ²² ADWR Compliance Status Report dated October 5, 2010.

27 ²³ Tr. at 15.

28 ²⁴ Tr. at 11-15.

²⁵ Tr. at 16-17.

²⁶ Tr. at 18.

1 personnel and the proper equipment to keep the water system safe.”²⁷ Mr. Martin stated he would like
 2 to see Truxton removed and replaced with a company that has “the knowledge, asset base, and
 3 willingness to fix [the] water problem,” and that Truxton’s “pattern of violated regulations and
 4 broken agreements has not served [the] community well.”²⁸

5 22. Mr. Andy Wilson also provided public comment. Mr. Wilson stated that he is a
 6 retired ADEQ inspector and that while working for ADEQ he was assigned to Truxton for six years.²⁹
 7 He stated that Truxton’s water system was built in the 1940s and it is beyond repair and needs to be
 8 rebuilt.³⁰ Mr. Wilson further stated that during the time he worked with Truxton he repeatedly
 9 requested plans for the system and never got them and that, in his experience with Truxton, the
 10 Company would only partially comply with requests.³¹ Mr. Wilson recounted an incident where
 11 Truxton was having water pressure issues on the north end of its system and customers were without
 12 water for days.³² According to Mr. Wilson, Truxton said it would install a pump station to correct the
 13 problem. Truxton purchased the pump, but never connected it to the system.³³

14 23. Other members of the public provided public comments related to the deteriorating
 15 condition of the water system and water quality issues.

16 **Staff Recommendations**

17 24. On the first day of hearing, Staff and Truxton presented a “Stipulation Agreement,”
 18 attached hereto and incorporated herein as Exhibit C, whereby Truxton agrees that the actions
 19 described in paragraphs three (3) through thirty (30) of the OSC occurred; that the actions described
 20 in those paragraphs may constitute violations of the A.R.S. and the A.A.C.; that Truxton will abide
 21 by any and all applicable rules, statutes, and constitutional provisions; that Truxton agrees with
 22 Staff’s twenty-two (22) recommendations and timelines as set forth in the Stipulation Agreement; and
 23 that the Stipulation Agreement shall be maintained by the Commission as a public record.³⁴

24
 25 ²⁷ Tr. at 19.

26 ²⁸ Id.

27 ²⁹ Tr. at 31.

28 ³⁰ Tr. at 29.

³¹ Tr. at 30.

³² Tr. at 30.

³³ Id.

³⁴ Exhibit S-1.

A. The Stipulation Agreement states that:

1. Truxton will be in full compliance with Commission rules and regulations, no later than September 30, 2011.
2. Staff may appoint an Interim Manager for Truxton, without further action by the Commission, if Truxton is not fully in compliance with all Commission and ADEQ rules and regulations by September 30, 2011, or the compliance deadlines established in the ADEQ Consent Order, whichever comes later.
3. Truxton will follow the approved ADEQ plan to remedy the Company's arsenic contamination violation.
4. Truxton will acquire all water system assets necessary to provide service from the Trust no later than June 30, 2011.
5. Truxton agrees to receive assignment of the WSA between the Trust and Association within thirty (30) days from the effective date of the Commission Order provided the Association agrees to the assignment.
6. Truxton will charge the Association the Stipulation Agreement's prevailing rate at the time of the Agreement transfer, and the rate will be referred to as the Golf Course Rate.
7. Truxton will no longer adjust the Golf Course Rate based on the annual Consumer Price Index ("CPI").
8. Truxton will file a revised tariff or a special contract rate for the transferred Agreement with the Association, with Docket Control, as a compliance item in this docket, 30 days from the effective date of the Commission Order.
9. Truxton will file a report with Docket Control, as a compliance item in this docket, no later than thirty (30) days from the effective date of the Commission Order, confirming that Truxton, and only Truxton, serves the customers within Truxton's CC&N, including, but not limited to, the Association.
10. Truxton will repair all leaks known as of December 31, 2010, within its water system, no later than June 30, 2011.
11. Truxton will maintain no less than 20 psi at the point of delivery to its customers, under all flow conditions, within its certificated area, no later than September 30, 2011.
12. Truxton will record its long-term debt obtained from the Trust without prior Commission approval as additional paid-in-capital by the Trust.
13. Truxton's accounting books and records will be in compliance with National Association of Regulatory Utility Commissioners Uniform Systems of Accounts and Generally Accepted Accounting Principles, no later than thirty (30) days from the date of the Commission Decision in this docket.
14. Truxton will file a rate case no later than September 30, 2011, based on a Test Year ending June 30, 2011.
15. Truxton will grant Staff access to the Trust's accounting books and records, for Staff's regulatory audit, during Truxton's rate case proceeding.
16. Staff may appoint an Interim Manager for Truxton, without further action of the Commission, if its rate case filing does not meet sufficiency requirements by January 30, 2012.
17. Truxton will file any NOV issued by ADEQ, with Docket Control, within 7 days of receipt of such NOV. Subsequent to the transmission of such NOV,

Truxton will continue to provide copies to Docket Control of all relevant documents, including, but not limited to, any documents or pleadings filed by ADEQ and/or by Truxton relating to the NOV and the steps Truxton takes to come in compliance, until the ultimate resolution of the NOV.

18. Truxton will comply with A.A.C. R14-2-411(A)(2) on the issue of timely response to its customers and the Commission.
19. Truxton will comply with R14-2-206 on the issue of MXAs.
20. Truxton will file all its currently non-approved MXAs and future MXAs for Commission approval.
21. Except as provided herein, Staff will notify Truxton in writing of violation of any Commission or ADEQ rule or regulation that would cause Staff to appoint an Interim Manager for Truxton. Truxton will have thirty (30) days to cure the violation.
22. Truxton maintains that compliance with ADEQ rules regarding the arsenic issues will take more than one year to achieve full compliance due to the testing requirements. Therefore, Staff and Truxton will work in good faith to set a compliance deadline regarding arsenic compliance. However, all other ADEQ compliance items will meet the deadlines as delineated above.

25. Staff further recommends that Truxton should:

- a. Install a meter at each interconnection location so that the level of non-account water for the Truxton water system can be determined.
- b. File documentation showing that meters have been installed and are in-service, within ninety (90) days of the effective date of a Decision in this matter.
- c. Once the meters have been installed, Truxton record the water entering its water system and water purchased by its customers on a monthly basis, and include this water use data in the Company's 2011 Annual Report to be filed with the Commission.
- d. Coordinate when it reads the source meters each month with when it reads the customer meters so that an accurate accounting of the water pumped and the water delivered to customers is determined.
- e. If reported water loss is greater than 10 percent, the Company shall prepare a report containing a detailed analysis and plan to reduce water loss to 10 percent or less. If Truxton believes it is not cost effective to reduce the water loss to less than 10 percent it should submit a detailed cost benefit analysis to support its opinion. In no case shall Truxton allow water loss to be greater than 15 percent.³⁵

Assignment of Agreement

26. The Association was granted intervention in this proceeding.³⁶ The Association and the Trust have a long-established contractual relationship dating back to 1972, whereby the Trust

³⁵ It is appropriate to address these additional Staff recommendations in the rate application that will be filed pursuant to the terms of the Stipulation Agreement.

³⁶ Procedural Order issued January 5, 2011.

1 provides the Association with irrigation water for use throughout its community, including
2 recreational areas.

3 27. The Association represents the residents of the Valle Vista development which
4 encompasses 4,300 lots and 850 existing homes located on 1700 acres.³⁷ The Valle Vista community
5 centers around the golf course, and includes other amenities such as a park, tennis court, and
6 swimming pool.³⁸

7 28. The Agreement between the Trust and the Association is renewable every five years.
8 The most current Agreement was executed on April 24, 2002 and is set to expire on December 31,
9 2011.³⁹

10 29. Under the terms of the Agreement, among other things, the Trust provides and the
11 Association must pay for a minimum of two hundred million gallons of water annually. The
12 Agreement provides that the Trust will first provide water from its Hackberry Area Well Field
13 ("Hackberry"), but that an added cost rate of \$.35 per one thousand gallons shall apply if the Trust
14 uses water sources other than Hackberry. The Agreement also allows the rate for the water to be
15 adjusted according to fluctuations in the CPI. The Agreement's current contract rate is \$1.14 per
16 1,000 gallons.

17 30. The Stipulation Agreement requires Truxton to receive assignment of the Agreement
18 between the Trust and the Association within thirty (30) days of the effective date of a Decision in
19 this matter.⁴⁰ Further, Staff and Truxton agree that Truxton will file a revised tariff or a special
20 contract rate for the transferred Agreement with the Association, within 30 days of the effective date
21 of a Decision in this matter. Finally, Truxton will charge the Association the Agreement's prevailing
22 rate at the time of the Agreement transfer.

23 31. The above provisions of the Stipulation Agreement stem from Staff's conclusion that
24 there is no independent management protecting Truxton's rights against the Trust, and that the Trust
25 should not be selling water within Truxton's CC&N.⁴¹ Staff testified that the Agreement with the

26 ³⁷ Tr. at 101.

27 ³⁸ Id.

28 ³⁹ Id.

⁴⁰ Exhibit S-1, No. 5.

⁴¹ Exhibit S-2 at 8.

1 Association, as well as all other agreements, have been signed by Mr. B. Marc Neal on behalf of the
 2 Trust and that a conflict of interest exists because Mr. B. Marc Neal acts as both President of Truxton
 3 and as the sole Trustee of the Trust.⁴² Staff testified that this conflict of interest has led to the Trust
 4 selling water within Truxton's CC&N when the Trust is not certificated as a public service
 5 corporation in Arizona.⁴³ Further, Staff is concerned with allegations that the Trust may be selling
 6 water to other entities (ie., water bottling company and through standpipes) within Truxton's
 7 CC&N.⁴⁴

8 32. According to Staff, the Trust's Agreement with the Association precludes Truxton
 9 from generating approximately \$200,000 in annual revenues.⁴⁵ The Association provided
 10 documentation showing that in 2009 it purchased water from the Trust in the amount of
 11 \$244,987.87.⁴⁶

12 33. Staff testified that under the terms of the Agreement, the Association pays a rate of
 13 \$1.14 per 1,000 gallons for the delivery of water.⁴⁷ Truxton currently pays the Trust \$1.01 per 1,000
 14 gallons to deliver water to the Association's golf course.⁴⁸ Staff testified that the prevailing rate of
 15 \$1.14 per 1,000 should be carried forward without any prospect for a rate increase until Truxton's
 16 next rate case.⁴⁹ Staff's witness testified that Staff believes the difference between the \$1.01
 17 purchased water rate and the \$1.14 rate paid by the Association will provide Truxton with a narrow
 18 margin to cover the additional costs related to the delivery of service once the Agreement is
 19 transferred.⁵⁰ Staff testified that it believes the operating margin is reasonable, but that the actual cost
 20 incurred by Truxton to provide service to the golf course will be fully vetted during the rate case.⁵¹

21 34. Staff believes it is the best interest of Truxton and its customers to have the
 22 Association remain a customer.⁵²

23 ⁴² Exhibit S-2 at 6, 8.

24 ⁴³ Id. at 8.

25 ⁴⁴ Id.

26 ⁴⁵ Id. at 9.

27 ⁴⁶ Exhibit S-2, Attachment AII-4.

28 ⁴⁷ Tr. at 53.

⁴⁸ Tr. at 59.

⁴⁹ Tr. at 52.

⁵⁰ Id. at 60.

⁵¹ Id. at 61.

⁵² Id.

1 35. The Association states that it does not oppose becoming a customer of Truxton and
2 generally agrees with Staff's recommendations in the Stipulation Agreement, subject to the following
3 conditions described below.⁵³

4 36. The Association states it will become a customer of Truxton if the Commission adopts
5 the prevailing rate of \$1.14 per 1,000 gallons as recommended by Staff; the added rate of \$.35 per
6 1,000 gallons for any water from sources other than the Hackberry Area Well Field, is charged only
7 in the event that such water supply is necessary; Truxton is required to notify the Association of the
8 need to use a water source other than Hackberry in advance of using another water source; and if the
9 Association only pays for water it actually uses.⁵⁴

10 37. The Association and the Trust state that the Agreement is a private contract between
11 them and cannot be assigned without the Association's consent.⁵⁵

12 38. Mr. William Meehan, board member and secretary for the Association, testified that
13 the Association is concerned with a possible rate increase because the Association has experienced
14 three years of unpaid assessments, requests to increase assessments have been rejected, and the
15 Association is operating with no reserves.⁵⁶ The witness stated that the golf course is the centerpiece
16 of the subdivision and that if water rates increase, the Association may not be able to pay for water
17 and the golf course would close and property values would be affected.⁵⁷ Additionally, the witness
18 stated that the Association has become increasingly worried about a potential rate increase, because
19 in recent correspondence, the Trust wants to include a franchise fee, superfund tax, and increased
20 costs for electrical rates.⁵⁸

21 39. The Association states it is willing to accept the added rate of \$.35 per 1,000 gallons
22 for any water from sources other than Hackberry, but only if such water supply is necessary.⁵⁹
23 Further, the Association requests that any Decision in this matter include a provision that Truxton
24 must notify the Association 48 hours prior to using any other water source in order to allow the

25 ⁵³ Association Closing Brief at 2.

26 ⁵⁴ Association Closing Brief at 6-7.

27 ⁵⁵ Tr. at 100 and Association Closing Brief at 3.

28 ⁵⁶ Tr. at 136.

⁵⁷ Tr. at 131, 138.

⁵⁸ Tr. at 139.

⁵⁹ Association Closing Brief at 7.

1 Association to adjust its water usage before incurring the additional charge.⁶⁰

2 40. The Association states that it will agree to assignment of the Agreement if it has to
3 only pay for the water it uses, and not the two hundred million gallons annually as stated in the
4 Agreement.⁶¹

5 41. The Association states it has significantly reduced its water usage in 2010 by 50
6 million gallons.⁶² The Association uses only groundwater to irrigate the golf course, park area, and
7 other common areas and landscaping in the Valle Vista community.⁶³ According to the Association's
8 witness, there is no option to use effluent to water the golf course because the closest sewer company
9 is 18 miles away.⁶⁴

10 42. Staff and Truxton contend that the issues raised by the Association would be best
11 resolved in a rate case proceeding.⁶⁵ Truxton asserts that the Association has rates that apply and that
12 before those rates can be changed, Truxton is entitled to a rate case proceeding.⁶⁶ Truxton also
13 contends that the Association is using the OSC proceeding to seek lower rates for water and if the
14 Association's request is granted, it will be paying rates significantly less than the lowest rate paid by
15 homeowners.⁶⁷ Truxton also argues that the Stipulation Agreement does not state that the Agreement
16 will no longer be valid or that any other terms will be changed.⁶⁸

17 43. Staff states the issue concerning the treatment of the Agreement between the Trust and
18 the Association is a peripheral issue to those contained in the OSC.⁶⁹ Staff urges the Commission to
19 adopt its recommendation regarding the treatment of the Agreement and the Transfer of the Trust's
20 water customers, including, but not limited to the Association, to Truxton.⁷⁰

21 MXAs

22 44. Staff alleges that Truxton has in the past failed to file MXAs with the Commission,

23 ⁶⁰ Association Closing Brief at 7.

24 ⁶¹ Id.

25 ⁶² Tr. at 144.

26 ⁶³ Tr. at 145.

27 ⁶⁴ Id.

28 ⁶⁵ Truxton Closing Brief at 2. Staff Closing Brief at 2.

⁶⁶ Truxton Closing Brief at 2.

⁶⁷ Id.

⁶⁸ Id.

⁶⁹ Staff Closing Brief at 3.

⁷⁰ Id.

1 failed to create written agreements evidencing MXAs, and has not refunded advances to customers.

2 45. In Docket No. W-02168A-10-0111, a Formal Complaint was lodged with the
3 Commission against Truxton. In the Complaint, Mr. James Bacus alleged that Truxton has violated
4 Commission Rules by failing to obtain Commission approval of a MXA executed between the
5 parties.⁷¹ Mr. Bacus alleged that he advanced Truxton \$24,816 on May 3, 2007, for the construction
6 of a main extension line to several lots. Mr. Bacus claimed, and the Company acknowledged, that the
7 transaction described in the Complaint did occur and that Truxton has failed to construct the main
8 line extension, failed to file for Commission approval of the MXA, or refunded Mr. Bacus' advance
9 when requested.⁷² Under the Settlement Agreement, Truxton was to pay Mr. Bacus the total amount
10 of \$24, 816, with an annual interest rate of 8 percent, beginning on May 1, 2007.⁷³ Further, upon
11 execution of the Settlement Agreement, Truxton was to pay Mr. Bacus \$5,000.⁷⁴ Beginning February
12 15, 2011, Truxton was to make monthly installment payments in the amount of \$700 to Mr. Bacus by
13 the 15th of month until the Settlement Amount is paid in full.⁷⁵

14 46. During this proceeding, Truxton's witness testified that the Company paid only \$1,000
15 of the full \$5,000 up-front payment to Mr. Bacus.⁷⁶ Further, the witness testified that, as of February
16 2011, the Company was \$1,400 in arrears on the monthly installment payments, in addition to the
17 \$4,000 advance payment owed to Mr. Bacus.⁷⁷ Truxton's witness testified that the Company was
18 unable to make the payments to Mr. Bacus because the Company had a reduction in cash flow
19 because it needed to refund meter deposits of approximately \$15,000 to \$20,000 for the months of
20 December 2010 and January 2011.⁷⁸ The witness stated that the Company should be able to pay Mr.
21 Bacus the \$5,700 owed in March 2011.⁷⁹

22 47. Staff has recommended that Truxton comply with A.A.C. R14-2-406 regarding
23 MXAs.

24 ⁷¹ Complaint at 1.

25 ⁷² Settlement Report docketed December 30, 2010 in Docket No. W-02168A-10-0111.

26 ⁷³ Id.

27 ⁷⁴ Id.

28 ⁷⁵ Id.

⁷⁶ Tr. at 194.

⁷⁷ Tr. at 196.

⁷⁸ Tr. at 192.

⁷⁹ Tr. at 193.

1 Analysis

2 48. The Association has, on the one hand, asserted that the Agreement with the Trust is a
3 contract between private parties and not subject to the Commission's jurisdiction while, on the other
4 hand, claiming that the Commission should modify the terms of the Agreement in order for the
5 Association to agree to the transfer of the Agreement from the Trust to Truxton. We note that the
6 Agreement between the Trust and the Association is due to expire on December 31, 2011, and with
7 the filing of a rate application by Truxton in the intervening period, as required by the Stipulation
8 Agreement, the issue of the appropriate rates for the Association and all other customers will be
9 reviewed and established by the Commission in that rate case proceeding.

10 49. The Stipulation Agreement reached by Truxton and Staff preserves the Association's
11 prevailing rate of \$1.14 until Truxton's rate case is completed; the Association agreed with Staff's
12 recommendation to pay the prevailing rate;⁸⁰ and the Association agreed it will intervene in the rate
13 case to address any proposed rate increases.⁸¹ Based on these facts, we find that the issues raised by
14 the Association are best resolved in a rate proceeding. However, we wish to make clear that the
15 Stipulation precludes both the Trust and the Company from extending the current Agreement or
16 entering into a new Agreement with the Association.

17 50. As stated above, Truxton has failed to make timely payments to Mr. Bacus based on
18 the executed Settlement Agreement. Staff has recommended that Truxton comply with Commission
19 rules governing MXAs. In addition, we find it appropriate to require Truxton to file in this docket
20 and the related Complaint docket, as a compliance item, proof that it is current on its payments to Mr.
21 Bacus on a monthly basis until the total Settlement Amount of \$24,816, plus applicable interest, is
22 paid in full. Truxton should also be on notice that the failure to make regular monthly payments in
23 accordance with the Settlement Agreement will constitute a violation of the Stipulation Agreement
24 and may result in administrative penalties being assessed.

25 51. The terms of the Stipulation Agreement are reasonable and shall be adopted.

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27
28 ⁸⁰ Tr. at 157.

⁸¹ Tr. at 155.

52. The OSC also seeks administrative penalties against Truxton pursuant to A.R.S. §§ 40-424 and 40-425. Staff believes that Truxton, through its new management, is committed to ensuring that Truxton is properly managed on a going-forward basis.⁸² Based on the ADEQ 2011 Consent Order, Truxton has had no new reported violations and is making progress towards correcting its compliance issues. Therefore, we find at this time it is not necessary, at this time, to assess administrative penalties against Truxton. However, Truxton should be on notice that any new violations (including failure to comply with this Decision) could result in Truxton being assessed administrative penalties.

CONCLUSIONS OF LAW

1. Truxton Canyon Water Company is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§§ 40-246, 40-424, and 40-425.

2. The Commission has jurisdiction over Truxton Canyon Water Company and the subject matter of the OSC.

3. The issuance of a Certificate of Convenience and Necessity to a public service corporation imposes a duty upon the certificate holder to operate the utility in a lawful manner, to comply with law, and to provide competent management and adequate service to its customers.

4. Truxton Canyon Water Company is in violation of paragraphs three (3) through thirty (30) as alleged in the Order to Show Cause.

5. Truxton Canyon Water Company shall comply with the terms of the Stipulation Agreement, attached hereto and incorporated herein.

6. Failure by Truxton Canyon Water Company to comply with the Stipulation Agreement could result in administrative penalties being assessed against the Company.

ORDER

IT IS THEREFORE ORDERED that the Stipulation Agreement, attached hereto as Exhibit C, reached by Truxton Canyon Water Company and the Commission's Utilities Division Staff, is hereby approved, and Truxton shall comply with the terms of the Stipulation Agreement, except that if the

⁸² Exhibit S-2 at 8.

1 leaks referred to in item #10 are not fixed by May 30, 2011, Staff shall appoint an interim manager as
2 soon as possible. In addition, Truxton Canyon Water Company will not be given the 30 day notice
3 referred to in item #21 if the leaks are not fixed by May 30, 2011.

4 IT IS FURTHER ORDERED that Truxton Canyon Water Company shall file in this Docket
5 and in Docket No. W-02168A-10-0111, as a compliance item, proof that it is current on its payments
6 to Mr. Bacus beginning June 1, 2011, and continuing annually until the total Settlement Amount of
7 \$24,816, plus applicable interest, is paid in full.

8 IT IS FURTHER ORDERED that Truxton Canyon Water Company is hereby put on notice
9 that the failure to make regularly monthly payments in accordance with the Settlement Agreement
10 and to file proof of such payments as described above will constitute a violation of the Stipulation
11 Agreement and may result in administrative penalties being assessed.

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IT IS FURTHER ORDERED that Truxton Canyon Water Company is hereby put on notice that any future violations of Arizona Statutes, Commission Rules, or this Decision, may result in it being assessed administrative penalties.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 27th day of MAY, 2011.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

SERVICE LIST FOR:

TRUXTON CANYON WATER COMPANY

DOCKET NO.:

W-02168A-10-0247

B. Marc Neal
Mike Neal
TRUXTON CANYON WATER CO.
7313 E. Concho Drive, Suite B
Kingman, AZ 86401

Steve Wene
MOYES SELLERS & SIMS
1850 N. Central Ave., Suite 1100
Phoenix, AZ 85004
Attorneys for Truxton Canyon Water Co.

Todd Wiley
FENNEMORE CRAIG
3003 N. Central Ave., Suite 2600
Phoenix, AZ 85012
Attorneys for Valle Vista Property
Owners Association, Inc.

Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Steven Olea, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

EXHIBIT A

Management Organizational Chart - March 2011

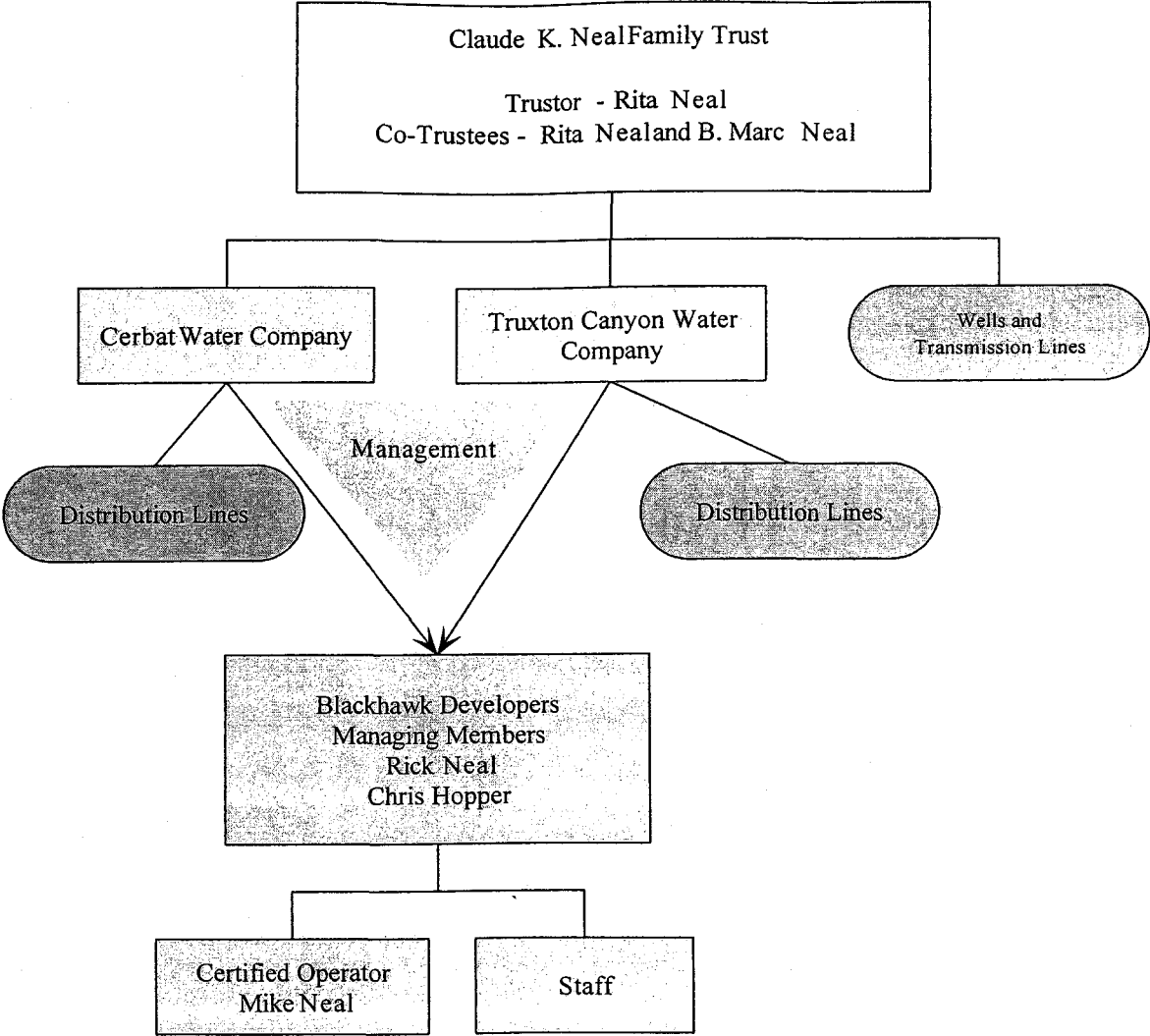


EXHIBIT B

**BEFORE THE DIRECTOR OF THE
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY**

In the Matter of:

CONSENT ORDER

Truxton Canyon Water Company,
Incorporated, located at 8163 E. Hwy 66,
Kingman, Mohave County, Arizona 86401

Public Water System Number 08-035

Docket No. DW-02-11

To: Truxton Canyon Water Co., Inc. (Truxton Canyon), an Arizona corporation, in its capacity
as owner and/or operator of Truxton Canyon Water Co., Inc., located at 8163 E. Hwy 66,
Kingman, Mohave County, Arizona 86401.

RECITALS

Truxton Canyon acknowledges that no promise of any kind or nature whatsoever was made
to induce it to enter into this Consent Order, and Truxton Canyon, has done so voluntarily.

Truxton Canyon acknowledges that by entering into this Consent Order, it does not resolve
any liability it may have for civil penalties for violations of any State or Federal environmental law.

By entering into this Consent Order, Truxton Canyon does not admit to any civil or criminal
liability, or waive any right including but not limited to the assertion of any defense available to
Truxton Canyon under applicable law. Further, Truxton Canyon does not admit, and both the
Arizona Department of Environmental Quality (ADEQ) and Truxton Canyon retain the right to
controvert in any subsequent proceeding to implement or enforce this Consent Order, the validity of
any Findings of Fact or Conclusions of Law contained in this Consent Order.

The undersigned representative of Truxton Canyon certifies that he is fully authorized to
execute this Consent Order on behalf of Truxton Canyon and to legally bind Truxton Canyon to this
Consent Order. Truxton Canyon admits to the jurisdiction of the Director of ADEQ.

Initials 

1 Except as to the right to controvert the validity of any Findings of Fact or Conclusion of
2 Law contained in this Consent Order in a proceeding other than to enforce this Consent Order,
3 Truxton Canyon consents to the terms and entry of this Consent Order and agrees not to contest the
4 validity or terms of this Consent Order in any subsequent proceeding.

5 **THEREFORE, IT IS HEREBY ORDERED** as follows:

6 **I. JURISDICTION**

7 The Director of ADEQ has jurisdiction over the subject matter of this action and is
8 authorized to issue this Consent Order pursuant to the Arizona Revised Statutes (A.R.S.) §§ 49-354
9 and 41-1092.07(F)(5).

10 **II. FINDINGS**

11 **THE DIRECTOR HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND**
12 **CONCLUSIONS OF LAW:**

13 **A. Findings of Fact**

14 1. Truxton Canyon Water Co., owns and/or operates Truxton Canyon Water
15 Co., located at 8163 E. Hwy 66, Kingman, Mohave County, Arizona 86401.

16 2. Truxton Canyon is a community water system serving a population of
17 approximately 2,205 with 960 water connections, served by (6) wells, two (2) Entry Points to the
18 Distribution System (EPDS), two (2) chlorinators and a distribution system. ADEQ has assigned
19 this water system Public Water System (PWS) #08-035.

20 3. Analytical results submitted by Truxton Canyon to ADEQ for a sample taken
21 at EPDS #001 on September 28, 2009 indicated an arsenic level of 0.015 mg/l, a sample taken on
22 November 17, 2009 indicated an arsenic level of 0.015 mg/l, and a sample taken on June 30, 2010
23 indicated an arsenic level of 0.013 mg/l.

24 4. According to ADEQ records, a public notice was not provided to customers
25 of PWS #08-035 for exceeding the MCL for arsenic from July 2008 through June 2010.

1 5. According to ADEQ records, Truxton Canyon did not submit arsenic
2 quarterly monitoring samples for EPDS #001 between October 2009 and March 2010, and between
3 July 2010 and September 2010.

4 6. According to ADEQ records, a public notice was not provided to customers
5 of PWS #08-035 for not submitting arsenic quarterly monitoring samples between October 2009
6 and September 2010.

7 7. According to ADEQ records, Truxton Canyon submitted one disinfection-by-
8 product monitoring sample result in 2008, when two (2) samples are required yearly. No samples
9 were submitted in 2009 or 2010 during the required timeframe of June 1 and September 30 each
10 year.

11 8. According to ADEQ records, a public notice was not provided to customers
12 for PWS #08-035 for not collecting the required number of disinfection-by-product samples from
13 June 2008 through June 2010.

14 9. According to ADEQ records, Truxton Canyon submitted one monthly
15 maximum-residual-disinfection monitoring sample result per quarter from July 2008 through June
16 2010, when two (2) monitoring samples per month are required.

17 10. According to ADEQ records, Truxton Canyon did not submit maximum-
18 residual-disinfection monitoring samples for July, August and September 2010 when two (2)
19 monitoring sample results are required.

20 11. According to ADEQ records, a public notice was not provided to customers
21 of PWS #08-035 for not collecting the required number of samples for maximum-residual-
22 disinfection monitoring from July 2008 though September 2010.

23 12. ADEQ does not have a record of Truxton Canyon submitting analytical
24 results for total coliform sampling required for September and October 2010.

25 13. According to ADEQ records, a public notice was not provided to customers

1 of PWS #08-035 for failure to collect total coliform samples required for September and October
2 2010.

3 14. ADEQ does not have a record of Truxton Canyon submitting an Initial
4 Distribution System Evaluation (IDSE) – Standard Monitoring Plan (SMP), which was due to
5 ADEQ by July 1, 2010.

6 15. According to ADEQ records, a public notice was not provided to customers
7 of PWS #08-035 for failure to submit an IDSE – SMP to ADEQ by July 1, 2010.

8 16. During an inspection conducted on December 14, 2005, it was discovered
9 that the water pressure at one of the businesses served by PWS #08-035 was less than 10 pounds per
10 square inch (psi). An Opportunity to Correct Deficiencies (NOC) was issued by ADEQ to
11 Truxton Canyon. Truxton Canyon did not respond to the NOC. From March 9, 2006 to March
12 17, 2006 ADEQ placed a recording pressure gauge on the distribution system of PWS #08-035.
13 The highest pressure recorded by the gauge during this time was 8.6 psi, and the lowest pressure
14 recorded was 1.4 psi.

15 17. During inspections conducted on May 19, 2009 and October 14, 2009,
16 ADEQ found the water pressure throughout the system was below 20 psi. From September 23,
17 2009 to September 30, 2009 ADEQ placed a recording pressure gauge on the distribution system of
18 PWS #08-035 at East Western Street. The recorded readings indicated that the connection never
19 achieved a pressure greater than 10 psi, and frequently dropped to less than 0, indicating a water
20 outage.

21 18. During inspections conducted on May 19, 2009 and October 14, 2009 the
22 ADEQ inspector observed multiple leaks, missing well numbers, missing emergency contact
23 information, missing public water system numbers posted at the wells, and observed general
24 disrepair problems.

25 19. In September 2007, Truxton Canyon and ADEQ entered into Consent

1 Order (DW-49-07), which required the water system to submit a written monitoring plan for the
2 collection of disinfection-by-product and residual disinfection level samples at representative sites
3 throughout the distribution system. ADEQ does not have a record of a monitoring plan being
4 submitted by Truxton Canyon.

5 B. Conclusions of Law

6 1. Truxton Canyon is a public water system as defined in A.R.S. § 49-352(B)
7 and 40 C.F.R. § 141.2 (incorporated by reference at A.A.C. R18-4-103).

8 2. Truxton Canyon is a community water system as defined in 40 C.F.R. §
9 141.2 (incorporated by reference at A.A.C. R18-4-103).

10 3. Truxton Canyon Water Co., as owner and operator of Truxton Canyon, is a
11 supplier of water as defined in 40 C.F.R. § 142.2 (incorporated by reference as A.A.C. R18-4-103).

12 4. The Maximum Contaminant Level (MCL) as defined in 40 C.F.R. § 141.2
13 (incorporated by reference as A.A.C. R18-4-103) means the maximum permissible level of a
14 contaminant in water which is delivered to any user of a public water system. The MCL for arsenic
15 is 0.010 mg/l as established in 40 C.F.R. § 141.62(b)(16) (incorporated by reference as A.A.C. R18-
16 4-109).

17 5. By distributing water in excess of the MCL for arsenic, Truxton Canyon
18 violated 40 C.F.R. § 141.62(b) (incorporated by reference as A.A.C. R18-4-109).

19 6. By failing to issue a Public Notice to customers of PWS #08-035 for arsenic
20 exceedances that occurred between September 2009 to March 2010 and July 2010 to September
21 2010, Truxton Canyon violated 40 C.F.R. § 141.203 (incorporated by reference as A.A.C. R18-4-
22 119).

23 7. By failing to submit quarterly arsenic monitoring results from October 2009
24 to March 2010 and July 2010 to September 2010 after exceeding the MCL, Truxton Canyon
25 violated 40 C.F.R. § 141.23(c)(7) (incorporated by reference as A.A.C. R18-4-105).

1 8. By failing to issue a Public Notice to customers of PWS #08-035 for failure
2 to conduct quarterly monitoring for arsenic, Truxton Canyon violated 40 C.F.R. § 141.203
3 (incorporated by reference as A.A.C. R18-4-119).

4 9. By failing to collect the required number of disinfection-by-product
5 monitoring samples between January 2008 through September 2010, Truxton Canyon violated 40
6 C.F.R. § 141.132(c)(1)(i) (incorporated by reference as A.A.C. R18-4-114(1)).

7 10. By failing to issue a Public Notice to customers of PWS #08-035 for failure
8 to collect the required monitoring samples for disinfection-by-product from January 2008 through
9 June 2010, Truxton Canyon violated 40 C.F.R. § 141.203 (incorporated by reference as A.A.C.
10 R18-4-119).

11 11. By failing to collect the required number of maximum-residual-disinfection
12 monitoring samples from July 2008 through September 2010, Truxton Canyon violated 40 C.F.R. §
13 141.132(c)(1)(i) (incorporated by reference as A.A.C. R18-4-114(1)).

14 12. By failing to issue a Public Notice to customers of PWS #08-035 for failure
15 to collect the required monitoring samples for maximum-residual-disinfection monitoring samples
16 from January 2008 through September 2010, Truxton Canyon violated 40 C.F.R. § 141.203
17 (incorporated by reference as A.A.C. R18-4-119).

18 13. By failing to collect total coliform samples for September and October 2010,
19 Truxton Canyon violated 40 C.F.R. § 141.21(a)(2)/A.A.C. R18-4-105.

20 14. By failing to issue a Public Notice to customers of PWS #08-035 for failure
21 to collect total coliform samples for September and October 2010, Truxton Canyon violated 40
22 C.F.R. § 141.203 (incorporated by reference as A.A.C. R18-4-119).

23 15. By failing to submit an Initial Distribution System Evaluation (IDSE) —
24 Standard Monitoring Plan (SMP), due to ADEQ by July 1, 2010, Truxton Canyon violated the
25 Stage 2 Disinfection-by-Product Rule 40 C.F.R. § 141.600.

1 16. By failing to issue a public notice to customers of PWS #08-035 for failure to
2 submit an IDSE - SMP to ADEQ by July 1, 2010, Truxton Canyon violated 40 C.F.R. § 141.203
3 (incorporated by reference as A.A.C. R18-4-119).

4 17. By failing to maintain a pressure of at least 20 (psi) at ground level at all
5 points in the potable water distribution system under all conditions of flow, Truxton Canyon
6 violated A.A.C. R18-5-502(B).

7 18. By failing to maintain and keep in proper operating condition a facility used
8 in the production, treatment, or distribution of a water supplier, Truxton Canyon violated A.A.C.
9 R18-4-203.

10 19. By failing to provide a monitoring plan for the collection of disinfection-by-
11 product and residual disinfection level samples at representative sites throughout the distribution
12 system, Truxton Canyon violated 40 C.F.R. § 141.132(f) (incorporated by reference as A.A.C. R18-
13 4-114), and Consent Order DW-49-07.

14 III. COMPLIANCE SCHEDULE

15 **THE DIRECTOR HEREBY ORDERS** and Truxton Canyon agree to comply with the provisions
16 of this Consent Order as follows:

17 A. Within ten (10) calendar days of the effective date of this Order, Truxton
18 Canyon shall issue a public notice describing the arsenic exceedance, failure to conduct arsenic
19 quarterly monitoring, failure to collect disinfection-by-product monitoring samples, failure
20 to collect the required number of chlorine samples, and failure to collect required total coliform
21 samples for September and October 2010 to customers of PWS #08-035, as required by 40 C.F.R. §
22 141.203(b) (incorporated by reference at A.A.C. R18-4-119). Truxton Canyon shall issue repeat
23 public notices on a quarterly basis as required by 40 C.F.R. § 203(b)(2) (incorporated by reference
24 at A.A.C. R18-4-119), and submit a copy of each repeat notice to ADEQ within ten (10) calendar
25 days after the notice are issued.

1 B. Within ten (10) calendar days of the effective date of this Order, Truxton Canyon
2 shall collect an arsenic monitoring sample from EPDS #001 and EPDS #002. Results shall be
3 submitted to ADEQ on ADEQ approved forms within ten (10) days of receiving results. All future
4 monitoring and reporting is required pursuant to 40 C.F.R. § 141.23(c)(7) (incorporated by
5 reference as A.A.C. R18-4-105).

6 C. Between June 1 and June 30, 2011, Truxton Canyon shall collect a disinfection-by-
7 product sample from EPDS #001 and EPDS #002. Results shall be submitted to ADEQ on ADEQ
8 approved forms within ten (10) days of receiving results. All future monitoring and reporting is
9 required pursuant to 40 C.F.R. § 141.131(c)(1)(i) (incorporated by reference as A.A.C. R18-4-
10 114(1)).

11 D. Within ten (10) calendar days of the effective date of this Order, Truxton Canyon
12 shall collect a chlorine monitoring sample from EPDS #001 and EPDS #002. Results shall be
13 submitted to ADEQ on ADEQ approved forms within ten (10) days of receiving results. All future
14 monitoring and reporting is required pursuant to 40 C.F.R. § 141.32(c)(1)(i) (incorporated by
15 reference as A.A.C. R18-4-114(1)).

16 E. Within thirty (30) calendar days of the effective date of this Order, Truxton Canyon
17 shall submit a copy of an IDSE - SMP pursuant to 40 C. F. R § 141.600.

18 F. Within ten (10) calendar days of the effective date of this Order, Truxton Canyon
19 shall collect a total coliform sample from EPDS #001 and EPDS #002. Results shall be submitted
20 to ADEQ on ADEQ approved forms within ten (10) days of receiving results. All future monitoring
21 and reporting is required pursuant to 40 C.F.R. § 141.21(a)(2) (incorporated by reference as A.A.C.
22 R18-4-105).

23 G. Within sixty (60) calendar days of the effective date of this Order, Truxton Canyon
24 shall develop a site monitoring plan in accordance with 40 C.F.R. § 141.132(f) (incorporated by
25 reference as A.A.C. R18-4-114), and submit to ADEQ for approval. Truxton Canyon shall respond

1 to any deficiencies noted in the plan within the time prescribed by ADEQ, and implement the plan
2 when ADEQ issues approval.

3 H. Within one-hundred-twenty (120) calendar days of the effective date of this Order,
4 Truxton Canyon shall conduct an engineering study of the complete water system and submit a
5 report prepared and signed by a professional engineer registered in the State of Arizona to ADEQ
6 for approval. The report shall detail upgrades and modifications required to bring the water system
7 into compliance with monitoring and reporting requirements as well as operation and maintenance
8 standards in accordance with A.A.C. R18-4-203. The engineering study shall include evaluation of
9 an arsenic treatment system.

10 I. Within forty-five (45) calendar days after ADEQ's approval of the engineering study
11 pursuant to Section III (D) of this Order, Truxton Canyon shall submit to ADEQ an administratively
12 complete application for an Approval to Construct (ATC) required by A.A.C. R18-5-505 for all
13 modifications or alterations that will affect the treatment capacity, water quality, flow, distribution
14 or operational performance, and the arsenic exceedance issue. Truxton Canyon shall respond to any
15 deficiencies noted by ADEQ within the time prescribed by ADEQ.

16 J. Within one-hundred eighty (180) calendar days after ADEQ issues the ATC, Truxton
17 Canyon shall complete all modifications or alterations approved by ADEQ and submit an
18 administratively complete application for an Approval of Construction (AOC), pursuant to R18-5-
19 507.

20 K. Within five (5) calendar days after the arsenic treatment system in Section III(E) is
21 installed, Truxton Canyon shall collect an initial sample, and then continue to conduct quarterly
22 monitoring for arsenic, and submit results to ADEQ within five (5) days of receiving
23 results, pursuant to this Order until the arsenic sample results demonstrate that the running annual
24 average is below 0.010 mg/l, in accordance with 40 C.F.R. § 141.23(i)(1) (incorporated by
25 reference at A.A.C. R18-4-105).

1 L. Notwithstanding the financial disposition of Truxton Canyon, within one year
2 from the effective date of this Order, Truxton Canyon shall complete construction of the approved
3 arsenic treatment system, and resolve other monitoring and reporting and operation and
4 maintenance issues discussed in this Order.

5 **IV. STATUS REPORTS**

6 A. Truxton Canyon agrees to submit a written status report to ADEQ every thirty (30)
7 calendar days beginning thirty (30) days from the effective date of this Consent Order, until
8 termination of this Consent Order. Each written status report shall describe what measures have
9 been taken under Section III, of this Consent Order, and shall certify when compliance with the
10 requirements of Section III of this Order has been achieved. Each report shall be accompanied by
11 evidence of compliance including, as appropriate, submittal of documents, photographs or copies of
12 any other supporting information that Truxton Canyon deems necessary.

13 B. ADEQ will review the status reports and relay any disputes in writing to Truxton
14 Canyon. Truxton Canyon shall incorporate all required modifications, changes or other alterations,
15 as requested by ADEQ, within a reasonable time specified by ADEQ.

16 **V. VIOLATIONS OF ORDER/STIPULATED PENALTIES**

17 A. ADEQ and Truxton Canyon agree that if Truxton Canyon commits civil violations
18 of A.R.S. Title 49, Chapter 2, Article 9 or rules adopted thereunder and fails to comply with this
19 Consent Order after the applicable compliance dates provided in Section III of this Order, ADEQ in
20 its sole discretion, but subject to Article 9, shall have the option of either collecting stipulated
21 administrative penalties pursuant to this Section, or pursuing statutory penalties.

22 B. Notwithstanding the foregoing, Truxton Canyon shall be entitled to exercise the right
23 to respond to any claimed violation by ADEQ and provide evidence to ADEQ that it is in
24 compliance and that said violation does not exist. If ADEQ determines after reviewing such
25

1 evidence that there is no violation of applicable laws, no stipulated administrative penalties shall be
2 collected.

3 C. If ADEQ elects to collect stipulated administrative penalties, Truxton Canyon agrees
4 to pay a penalty of \$100.00 per day per violation, up to \$1,000.00 per violation.

5 D. Except as otherwise provided herein, stipulated penalties shall begin to accrue on the
6 day that performance is due or that a violation of this Consent Order occurs and shall continue to
7 accrue until correction of the act of noncompliance is completed. Neither issuance by ADEQ nor
8 receipt by Truxton Canyon of a Notice of Violation of the terms and conditions of this Consent
9 Order are conditions precedent to the accrual of stipulated penalties.

10 E. The payment of stipulated penalties shall not relieve Truxton Canyon from
11 compliance with the terms and conditions of this Consent Order or Federal or State laws, nor limit
12 the authority of the State to require compliance with the Consent Order or State law.

13 **VI. COMPLIANCE WITH OTHER LAWS**

14 A. This Consent Order does not encompass issues regarding releases, contamination,
15 sources, operations, facilities or a process not expressly covered by the terms of this Consent Order,
16 and is without prejudice to the rights of the State of Arizona or Truxton Canyon arising under any
17 federal or Arizona environmental statutes and rules with regard to such issues.

18 B. Nothing in this Consent Order shall constitute a permit of any kind, or a modification
19 of any permit of any kind, or an agreement to issue a permit of any kind under federal, state or local
20 law, or relieve Truxton Canyon in any manner of its obligation to apply for, obtain, and comply
21 with all applicable permits. Nothing in this Consent Order shall in any way alter, modify or revoke
22 federal, state, or local law, or relieve Truxton Canyon in any manner of its obligation to comply
23 with such laws. Compliance with the terms of this Consent Order shall not be a defense to any
24 action to enforce any such permits or laws.

25

1 **VII. FORCE MAJEURE**

2 A. Truxton Canyon shall perform all the requirements of this Consent Order according
3 to the time limits set forth herein, unless performance is prevented or delayed by events which
4 constitute a *force majeure*. *Force majeure*, for the purposes of this Consent Order, is defined as any
5 event, arising from causes beyond the control of Truxton Canyon or its authorized representatives
6 which delays or prevents the performance of any obligation under this Consent Order and which
7 could not have been overcome or prevented by Truxton Canyon the financial inability of Truxton
8 Canyon to comply with the terms of this Consent Order shall not constitute a *force majeure*.

9 B. In the event of a *force majeure*, the time for performance of the activity affected by
10 the *force majeure* shall be determined by ADEQ and extended for a period no longer than the delay
11 caused by the *force majeure*. The time for performance of any activity dependent on the delayed
12 activity shall be similarly extended. In the event of a *force majeure*, Truxton Canyon shall notify
13 ADEQ in writing within five (5) calendar days after Truxton Canyon or its agents become aware of
14 the occurrence. The written notice provided to ADEQ shall describe in detail the event, the
15 anticipated delay, the measures taken and to be taken by Truxton Canyon to prevent or minimize
16 delay, and a proposed timetable under which those measures will be implemented. Truxton Canyon
17 shall take all reasonable measures to prevent or minimize any delay caused by the *force majeure*.
18 Failure of Truxton Canyon to comply with any requirements of this paragraph for a particular event
19 shall preclude Truxton Canyon from asserting any claim of *force majeure* for that event.

20 **VIII. SITE ACCESS**

21 ADEQ may at any time, upon presentation of credentials to authorized personnel on duty,
22 enter upon the premises at the Facility for the purpose of observing and monitoring compliance with
23 the provisions of this Consent Order. This right of entry shall be in addition to, and not in limitation
24 of or substitution for, ADEQ's rights under applicable law.
25

IX. CORRESPONDENCE

All documents, materials, plans, notices, or other items submitted as a result of this Consent

Order shall be transmitted to the addresses specified below:

To ADEQ:

Arizona Department of Environmental Quality
Water Quality Division
Attention: Vivian Burns, Case Manager
1110 West Washington Street
Phoenix, Arizona 85007-2935
Telephone: (602) 771-4608
Email: burns.vivian@azdeq.gov

To Truxton Canyon:

B. Mark Neal, President
Truxton Canyon Water Co., Inc.
8163 E. Hwy 66
Kingman, AZ 86401

Rick Neal
Truxton Canyon Water Co., Inc.
7219 W. Sahara Ave., Ste. 120
Las Vegas, NV 89117

Steve Wene, ESQ
Moyes, Sellers & Sims
1850 N. Central Ave., Ste. 1100
Phoenix, AZ 85004

Submissions to ADEQ as a result of this Consent Order shall be deemed submitted upon receipt.

X. RESERVATION OF RIGHTS

A. This Consent Order is based solely upon currently available information. If additional information is discovered, which indicates that the actions taken under this Consent

Order are or will be inadequate to protect human health, safety, or the environment, or to conform with applicable federal or state laws, ADEQ shall have the right to require further action.

B. ADEQ shall have the right: to pursue civil penalties for violations of any and all violations of A.R.S. Title 49, or the rules promulgated thereunder; to disapprove of work performed Truxton Canyon that fails to comply with this Consent Order; to take enforcement action for any and all violations of this Consent Order; and to take enforcement action for any and all violations of

1 A.R.S. Title 49, or the rules promulgated thereunder, occurring after the entry of this Consent
2 Order.

3 **XI. SEVERABILITY**

4 The provisions of this Consent Order are severable. If any provision of this Consent Order
5 is declared by a court of law to be invalid or unenforceable, all other provisions of this Consent
6 Order shall remain in full force and effect.

7 **XII. MODIFICATIONS**

8 Any modifications of this Consent Order shall be in writing and must be approved by both
9 Truxton Canyon and ADEQ.


10 **XIII. EFFECTIVE DATE**

11 The effective date of this Consent Order shall be the date this Consent Order is signed by
12 ADEQ and Truxton Canyon. If such signatures occur on different dates, the later date shall be the
13 effective date of this Consent Order.

14 **XV. TERMINATION**

15 The provisions of this Consent Order shall be deemed satisfied and this Consent Order shall be
16 terminated upon receipt of written notification from ADEQ that Truxton Canyon has demonstrated,
17 to the satisfaction of ADEQ, that all of the terms of this Consent Order have been completed. Any
18 denial of a request for termination from Truxton Canyon will be in writing and describe which
19 terms of the Consent Order have not been completed to the satisfaction of ADEQ. ADEQ reserves
20 the right to terminate this Consent Order unilaterally at any time for any reason. Any termination
21 will include a written explanation of the reason(s) for termination.

22 ISSUED this 10th day of January, 20 11.

23 
24 _____
25 Michael A. Fulton, Director
Water Quality Division
Arizona Department of Environmental Quality

CONSENT TO ORDER

The undersigned, on behalf of Truxton Canyon, hereby acknowledges that he has read the foregoing Consent Order in its entirety, agrees with the statements made therein, consents to its entry and issuance by the Arizona Department of Environmental Quality, agrees that Truxton Canyon will abide by the same and waive any right to appeal therefrom.

DATED this 27 day of December, 20 10.

TRUXTON CANYON WATER CO., INC.

By: B. Mark Neal
B. Mark Neal, President

Initials B. Mark Neal

ORIGINAL of the foregoing Consent Order was sent certified mail, return receipt requested, this 11th day of January, 20 11, to:

B. Mark Neal, President
Truxton Canyon Water Co., Inc.
8163 E. Hwy 66
Kingman, AZ 86401

COPY of the foregoing Consent Order was filed this 11th day of January, 20 11, with:

Arizona Department of Environmental Quality
Office of Administrative Counsel
Attention: Hearing Administrator
1110 West Washington Street
Phoenix, Arizona 85007-2935

COPIES of the foregoing Consent Order were sent by regular/interdepartmental mail, this 11th day of January, 20 11, to the following:

Mike Neal, Statutory Agent
Truxton Canyon Water Co.
7313 E. Concho Dr., Suite B
Kingman, AZ 86401

Rick Neal
7219 W. Sahara Ave., Ste. 120
Las Vegas, NV 89117

Steve Wene, ESQ
Attorney of Record, Truxton Canyon Water Co., Inc.
1850 N. Central Ave., #1100
Phoenix, AZ 85004

Marcia Colquitt, Manager Water Quality Enforcement Unit
Vivian Burns, Case Manager Water Quality Enforcement Unit
Vivian Adams, ADEQ Drinking Water Section
Sybil Smith, Northern Regional Office

Mohave County Department of Public Health
Patty Mead, Director
700 W. Beale Street
Kingman, AZ 86401

Steve Olea, Utilities Division
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007-2996

Patrick Chan EES-WTR-6
USEPA Region IX
75 Hawthorne Street
San Francisco, CA 94105

EXHIBIT C



COMMISSIONERS
GARY PIERCE - Chairman
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP
BRENDA BURNS

ERNEST G. JOHNSON
Executive Director

ARIZONA CORPORATION COMMISSION

STIPULATION AGREEMENT

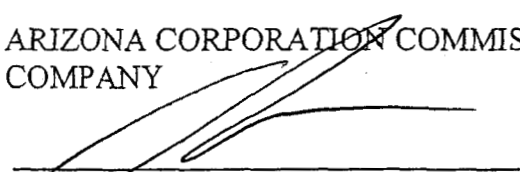
This Agreement is between the Utilities Division Staff of the Arizona Corporation Commission ("Staff") and Truxton Canyon Water Company ("Company" or "Truxton").

An Order to Show Cause ("OSC") was issued by the Arizona Corporation Commission ("Commission") against the Company on August 10, 2010 (Decision No. 71837). Paragraphs three (3) through thirty (30) of the OSC present the factual background as understood by Staff. The OSC contains 16 (sixteen) Counts of alleged violations by the Company.

In order to resolve this matter, Truxton agrees:

1. That the actions as described in paragraphs three (3) through thirty (30) of the OSC occurred.
 2. That the actions as described in paragraphs three (3) through thirty (30) of the OSC may constitute violations of the Arizona Revised Statutes ("A.R.S.") and the Arizona Administrative Code ("A.A.C.").
 3. To abide by any and all applicable rules, statutes, and constitutional provisions.
 4. To the Recommendations and Timelines as set forth in Attachment A to this document.
-
5. That this Stipulation shall be maintained by the Commission as a public record.

ARIZONA CORPORATION COMMISSION
COMPANY


Steve Olea
Utilities Division Director

TRUXTON CANYON WATER

By 

Title MANAGER

Date 1/18/11

ATTACHMENT A

Recommendations and Timelines

1. Truxton will be fully in compliance with Commission rules and regulations, no later than September 30, 2011.
 2. Staff may appoint an Interim Manager for Truxton, without further action by the Commission, if Truxton is not fully in compliance with all Commission and ADEQ rules and regulations by September 30, 2011 or the compliance deadlines established in the ADEQ Consent Order, whichever comes later.
 3. Truxton will follow the approved ADEQ plan to remedy the Company's Arsenic contamination violation.
 4. Truxton will acquire all water system assets necessary to provide service from the Neal Family Trust no later than June 30, 2011.
 5. Truxton agrees to receive assignment of the Water Supply Agreement between the Trust and the Association within 30 (thirty) days from the effective date of the Commission Order provided the Association agrees to the assignment.
 6. Truxton will charge to the Association the Agreement's prevailing rate at the time of the Agreement transfer, the rate will be referred to as the Golf Course Rate.
 7. Truxton will no longer adjust the Golf Course Rate based on the annual Consumer Price Index ("CPI").
 8. Truxton will file a revised tariff or a special contract rate for the transferred Agreement with the Association's with Docket Control, as a compliance item in this docket, 30 days from the effective date of the Commission Order.
-
9. Truxton will file a report with Docket Control, as a compliance item in this docket, no later than 30 days from the effective date of the Commission Order, confirming that Truxton, and only Truxton, serves the customers within Truxton's CC&N, including but not limited to the Association.
 10. Truxton will repair all leaks known as of December 31, 2010, within its water system, no later than June 30, 2011.
 11. Truxton will maintain no less than 20 psi at the point of delivery to its customers, under all flow conditions, within its certificated area, no later than September 30, 2011.
 12. Truxton will record its long-term debt obtained from the Trust without prior Commission approval as additional paid-in capital by the Trust.
 13. Truxton's accounting books and records will be in compliance with National Association of Regulatory Utility Commissioners Uniform Systems of Accounts and Generally

Accepted Accounting Principles, no later than 30 days from the date of Commission decision in this docket.

14. Truxton will file a rate case no later than September 30, 2011, based on a Test Year ending June 30, 2011.
15. Truxton will grant Staff access to the Trust's accounting books and records, for Staff's regulatory audit, during Truxton's rate case proceeding.
16. Staff may appoint an Interim Manager for Truxton, without further action of the Commission, if its rate case filing does not meet sufficiency requirements by January 30, 2012.
17. Truxton will file any Notice of Violation ("NOV") issued by ADEQ, with Docket Control within 7 days of receipt of such NOV. Subsequent to the transmission of such NOV, Truxton will continue to provide copies to Docket Control of all relevant documents, including but not limited to any documents or pleadings filed by ADEQ and/or by Truxton relating to the NOV and the steps Truxton takes to come in compliance, until the ultimate resolution of the NOV.
18. Truxton will comply with A.A.C. R14-2-411(A)(2) on the issue of timely response to its customers and the Commission.
19. Truxton will comply with R14-2-406 on the issue of Main Line Extension Agreement ("MXA").
20. Truxton will file all its currently non-approved MXA's and future MXA's for Commission approval.
- ~~21. Except as provided in paragraph 16, Staff will notify Truxton in writing of violation of any Commission or ADEQ rule and regulation that would cause Staff to appoint an Interim Manager for Truxton. Truxton will have 30 days to cure the violation.~~
22. Truxton maintains that compliance with ADEQ rules regarding the arsenic issues will take more than one year to achieve full compliance due to the testing requirements. Therefore, Staff and Truxton will work in good faith to set a compliance deadline regarding arsenic compliance. However, all other ADEQ compliance items will meet the deadlines as delineated above.